

SUPREME COURT OF RHODE ISLAND

State v. Eric Mensah

State v. Mensah, No. 2019-75-C.A. (P1/16-1489A) (R.I. May 14, 2020) · No. 2019-75-C.A. (P1/16-1489A) ·
Decided May 14, 2020

SUMMARY

The Rhode Island Supreme Court affirmed Eric Mensah’s convictions for two counts of first-degree child molestation sexual assault and two counts of second-degree child molestation sexual assault. The court held that Mensah’s challenge to the admission of evidence concerning an uncharged incident was waived because he did not make timely and appropriate objections during trial. The court also addressed his challenges to the denial of his motion for a new trial based on the sufficiency and weight of the evidence.

CASE DETAILS

COURT	Supreme Court of Rhode Island
WRITING FOR THE COURT	Chief Justice Paul A. Suttell; Chief Justice Suttell; Justice Goldberg; Justice Flaherty; Justice Robinson; Justice Indeglia
JURISDICTION	Rhode Island
DECIDED	May 14, 2020
DOCKET	2019-75-C.A. (P1/16-1489A)
DISPOSITION	affirmed
PROCEDURAL POSTURE	Mensah appealed from a Superior Court judgment entered after a jury convicted him of two counts of first-degree child molestation sexual assault and two counts of second-degree child molestation sexual assault. He challenged the admission of evidence under Rhode Island Rule of Evidence 404(b) and the denial of his motion for a new trial based on the sufficiency and weight of the evidence.
STANDARD OF REVIEW	The Supreme Court reviewed the Rule 404(b) evidentiary ruling for abuse of discretion. It reviewed the sufficiency-of-the-evidence ruling de novo, viewing the evidence in the light most favorable to the verdict and asking whether any reasonable jury could have found the essential elements beyond a reasonable doubt. Review of the denial of a weight-of-the-evidence motion for a new trial was deferential, and the decision would not be overturned absent overlooked or misconceived material evidence or clear error.

PRECEDENTIAL VALUE

Published Rhode Island Supreme Court opinion

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Eric Mensah v. State of Rhode Island

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QUESTIONS PRESENTED

1. Whether Mensah preserved for appellate review his challenge to the admission of evidence concerning the July 2015 incident under Rhode Island Rule of Evidence 404(b) by objecting to the State's motion in limine but not making a timely objection during trial.
2. Whether the evidence was sufficient to support the first-degree child molestation sexual assault conviction based on alleged anal penetration.
3. Whether the trial justice properly denied Mensah's motion for a new trial on weight-of-the-evidence grounds after independently reviewing the evidence and determining that reasonable minds could differ.

HOLDINGS

1. An objection to a motion in limine, without a timely and specific objection when the evidence is introduced at trial, does not preserve an evidentiary challenge for appeal. Mensah's Rule 404(b) argument was therefore waived.
2. The evidence was sufficient to support the first-degree child molestation sexual assault conviction because Emma's testimony that Mensah caused anal pain and moved his body up and down constituted evidence from which a reasonable factfinder could infer anal penetration.
3. The trial justice properly denied Mensah's motion for a new trial based on the weight of the evidence because, after independently reviewing the evidence and credibility issues, she determined that reasonable minds could differ from her reservations about the verdict.

KEY QUOTATIONS

"The raise-or-waive rule imposes upon litigants a duty to raise all their claims for relief in the trial court and properly articulate them to a judge for a ruling." (-13-)

"Accordingly, it is incumbent upon counsel to raise 'timely and appropriate' evidentiary objections throughout the trial in order to preserve the issues for appeal." (-14-)

"Sexual penetration" is defined in our general laws as, "sexual intercourse, cunnilingus, fellatio, and anal intercourse, or any other intrusion, however slight, by any part of a person's body or by any object into the genital or anal openings of another person's body, or the victim's own body upon the accused's instruction, but emission of semen is not required." (-16-)

“After a thorough review of the record, we are of the opinion that the trial justice did not overlook or misconceive any material evidence, nor did she clearly err by denying the defendant’s motion for a new trial”
(-19-)

FACTUAL BACKGROUND

Mensah's eight-year-old daughter, Emma, moved from Ghana to Rhode Island and lived with him in Pawtucket. She testified that shortly after arriving, Mensah penetrated her anus with his penis and digitally penetrated her vagina, and that he engaged in other sexual touching and physical abuse. She delayed disclosure until December 2015, after a police response to a July 2015 incident in which Mensah allegedly beat her with a hanger; the State introduced that incident to explain her fear and delayed disclosure. Medical and investigative witnesses corroborated aspects of her disclosure, although the medical examination revealed no physical injury.

PROCEDURAL HISTORY

Mensah was indicted on May 6, 2016, pleaded not guilty on June 8, 2016, and was convicted by a jury on September 25, 2017. The Superior Court trial justice denied his Rule 33 motion for a new trial, concluding that the evidence was sufficient and that reasonable minds could differ regarding the weight of the evidence. Mensah timely appealed, and the Rhode Island Supreme Court affirmed.

DISPOSITION

affirmed

REMAND INSTRUCTIONS

The papers were remanded to the Superior Court.

CASES CITED

- State v. Perry, 182 A.3d 558, 568 (R.I. 2018)
- State v. Rainey, 175 A.3d 1169, 1182 (R.I. 2018)
- State v. Andrade, 209 A.3d 1185, 1194 (R.I. 2019)
- State v. Cahill, 196 A.3d 744, 753 (R.I. 2018)
- State v. Buchanan, 81 A.3d 1119, 1126 (R.I. 2014)
- State v. Colon, 198 A.3d 1249, 1255 (R.I. 2019)
- State v. Ciresi, 45 A.3d 1201, 1212 (R.I. 2012)
- State v. Whitaker, 79 A.3d 795, 814-15 (R.I. 2013)
- In re B.H., 138 A.3d 774, 778, 781-82 (R.I. 2016)
- State v. McDonald, 157 A.3d 1080, 1088 (R.I. 2017)
- State v. Clark, 974 A.2d 558, 569-71 (R.I. 2009)
- United States v. Jones, 418 F.3d 726, 729 (7th Cir. 2005)
- United States v. Paret-Ruiz, 567 F.3d 1, 5 (1st Cir. 2009)

- State v. Johnson, 199 A.3d 1046, 1050-51 (R.I. 2019)
- State v. Gomez, 116 A.3d 216, 223 (R.I. 2015)

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